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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/267,383 03/15/99 GRISHCHENKO

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EXAMINER

| | |
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| ART UNIT | PAPER NUMBER |
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3749

DATE MAILED:

09/07/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/267,383

Applicant(s)

GRISHCHENKO ET AL.

Examiner

JIPING LU

Group Art Unit

3749



☒ Responsive to communication(s) filed on Jun 26, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 14-24 is/are pending in the application.

Of the above, claim(s) 18 and 23 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 14-17, 21, and 24 is/are rejected.

☒ Claim(s) 19, 20, and 22 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Election/Restriction

1. This application contains claims 18 and 23 drawn to an invention nonelected without traverse in Paper No. 5. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 14-17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thiel et al. (U.S. Pat. 4,085,517) in view of Whelan (U.S. Pat. 3,840,999).

Thiel et al. show an apparatus (Fig. 1) for producing heat insulating foamable containers 12. An oven 1 produces heated air. A conveyor 4 conveys a plurality of fabricated containers 12 through the oven 1 to heat the surface of each fabricated container 12. However, Thiel et al. do not show spaced apart holders for supporting containers in a loose manner. Whelan teaches a conveyor 102 (see Fig. 6) which includes a plurality of spaced apart holders 43-46 for supporting respective fabricated containers 60 same as claimed. Each holder 43-46 configures to support fabricated containers 60 in a loose manner and enables the container 60 to freely wobble relative to its holder 43-46 under the influence of conveyor vibration and air

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currents within the oven 70 while prevents the fabricated container 60 from making contact with any other fabricated container within the oven. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the conveyor with holders 34 of Whelan for the conveyor 4 of Thiel et al. in order to provide a better support of the containers.

4. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thiel et al. (U.S. Pat. 4,085,517) in view of Whelan (U.S. Pat. 3,840,999) as applied to claim 14 above, and further in view of Hicks (U. S. Pat. 4,004,129).

The apparatus of Thiel et al. as modified by Whelan as above includes all that is recited in claim 24 except for the serpentine conveyor within the oven. Hicks teaches a conveyor 12 extends through the oven along a serpentine path same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to arrange the conveyor of Thiel et al. along a serpentine path in the oven as taught by Hicks in order to obtain a uniform heating to the containers.

Allowable Subject Matter

5. Claims 19-20 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.



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Response to Arguments

6. Applicant's arguments filed 6/26/2000 have been fully considered but they are not persuasive. The claims presented fail to structurally define over the prior art references. The patent to Thiel et al. clearly show an apparatus (Fig. 1) for producing heat insulating foamable containers 12 with the heated air. Whelan shows a conveyor with spaced apart holders 43-46 for supporting containers in a loose manner same as claimed. The containers of Whelan are able to freely wobble relative to its holder under certain degree influence of conveyor vibration and air currents since the containers are not fixed to the holders and the holders are resilient and deflectable. Therefore, it is the examiner's position the combined teachings of the references would lead one skilled in the art to derive the broadly claimed invention in order to provide a better support of the containers.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37



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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is (703) 308-2354.


DAVID L. LUNN
SUPERVISORY PATENT EXAMINER
GROUP 3400

J. L.

August 30, 2000

